

10/523607

DT01 Rec'd PCT/PTC 04 FEB 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

BERTHON-JONES et al.

Atty. Ref.: 4398-407

Serial No. National Phase of
PCT/AU2003/000988

TC/A.U.: Unassigned

Filed: February 4, 2005

Examiner: Unassigned

For: INEXTENSIBLE HEADGEAR AND CPAP OR VENTILATOR MASK
ASSEMBLY WITH SAME

* * * * *

February 4, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT

Listed on accompanying Form PTO-1449 is information that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith. At least one of the boxes below applies to the present application:

1. ☒ This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No statement under 37 C.F.R. § 1.97(e) or fee is required.

a. ☐ Contingent Request to Treat Under 37 C.F.R. § 1.97(c)

In the event a first Office Action has been mailed prior to filing of the present Information Disclosure Statement and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(c) and charge the

undersigned's Deposit Account No. 14-1140 for the fee required by 37

C.F.R. § 1.17(p). The present paper is submitted in duplicate for this purpose.

b. ☐ Contingent Request to Treat Under 37 C.F.R. § 1.97(e)(1)

In the event a first Office Action has been mailed prior to the filing of the present Information Disclosure Statement, and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(e)(1) in that the undersigned hereby states that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

b.1. ☐ Patent Term Adjustment

I hereby certify that each item of information was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in Section 1.56(c) more than 30 days prior to the filing of the Information Disclosure Statement. 37 C.F.R. §1.704(d).

c. ☐ Contingent Request to Treat Under 37 C.F.R. § 1.97(e)(2)

In the event a first Office Action has been mailed prior to the filing of the present Information Disclosure Statement, and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(e)(2) in that the undersigned hereby states that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my

knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

2. ☐ This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

a. ☐ I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1). Contingent Request Under 37 C.F.R. § 1.97(d). In the event a Notice of Allowance or a Final Rejection has been mailed prior to filing this Information Disclosure Statement, the Office is authorized to treat this as a submission under 37 C.F.R. 1.97(d) and charge the undersigned's Deposit Account No. 14-1140 for the fee required by 37 C.F.R. § 1.17(p). The present paper is submitted in duplicate for this purpose.

a.1. ☐ Patent Term Adjustment

I hereby certify that each item of information was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in Section 1.56(c) more than 30 days prior to the filing of the Information Disclosure Statement. 37 C.F.R. § 1.704(d).

b. ☐ I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this

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Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

c. ☐ Attached is our check in the amount of \$ in payment of the fee under 37 C.F.R. § 1.17(p).

3. ☐ This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee 37 C.F.R. § 1.97(d). It is hereby requested that the Information Disclosure Statement be considered. Attached is our check in the amount of \$ in payment of the fee under 37 C.F.R. § 1.17(i).

a. ☐ I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

a.1. ☐ Patent Term Adjustment

I hereby certify that each item of information was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in Section 1.56(c) more than 30 days prior to the filing of the Information Disclosure Statement. 37 C.F.R. §1.704(d).

b. ☐ I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

4. ☐ Relevance of the non-English language document(s) is discussed in the present specification.

5. ☒ The foreign patent documents were cited in a corresponding PCT application. An English language version of the foreign search report or official action is attached for the Examiner's information. See MPEP § 609.

a. ☐ U.S. Patent No. _____ is indicated in the foreign search report or Official Action as being in the same patent family and/or the English-language equivalent of _____ listed on the attached foreign search report.

6. ☐ A concise explanation of the relevance of the non-English language document(s) appears below:

7. ☐ Copies of the documents were cited by or submitted to the Office in Application No. _____, filed _____, which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

8. ☐ The publication date (e.g., month or year) of at least one of the listed documents is not available. For each document in this category, the Office is requested to assume that the year of publication of each listed document is earlier than the effective U.S. filing date and/or any foreign priority date.

9. ☐ The publication date of at least one document is listed on the attached PTO-1449 based on information presently available to the undersigned. However, each listed publication date should not be construed as an admission that the information was actually published on the date indicated, and the right to challenge each listed publication date is expressly reserved by Applicant(s).

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 14-1140 referencing docket number 4398-407.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



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**INFORMATION DISCLOSURE STATEMENT
BY APPLICANT**

Applicant: Berthon-Jones et al.

Nat'l. Phase of PCT/AU2003/000988

Filing Date: February 4, 2005

Date: Page 1 of 12

Examiner: Unassigned Group Art Unit: Unassigned

U.S. PATENT DOCUMENTS

| Examiner's Initials* | Document Number | Date MM/YYYY | Name (Family Name of First Inventor) | Class | Sub Class | Filing Date (if appropriate) |
|-------------------------|--------------------|-----------------|---|-------|--------------|------------------------------------|
| | AR 4,616,647 | 10/1986 | McCreadie | | | |
| | BR 3,013,556 | 12/1961 | Galleher, Jr. | | | |
| | CR 5,657,493 | 08/1997 | Ferrero et al. | | | |
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| | ER 5,046,200 | 09/1991 | Feder | | | |
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| | IR 5,086,768 | 02/1992 | Niemeyer | | | |
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| | KR | | | | | |
| | LR | | | | | |

FOREIGN PATENT DOCUMENTS

| | Document Number | Date MM/YYYY | Country | Inventor Name | English Abstract | | Translation Readily Available | |
|--|--------------------|-----------------|---------|---------------|---------------------|----|-------------------------------------|----|
| | | | | | Enclosed | No | Enclose | No |
| | MR | | | | | | | |
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OTHER (Including in this order Author, Title, Periodical Name, Date, Pertinent Pages, etc.):

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Examiner

Date Considered:

*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

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INFORMATION DISCLOSURE
 STATEMENT BY APPLICANT

(Use several sheets if necessary)

U.S. PATENT DOCUMENTS

| EXAMINER INITIAL | PATENT NUMBER | ISSUE DATE | PATENTEE | CLASS | SUBCLASS | FILING DATE IF APPROPRIATE |
|---------------------|------------------|---------------|---------------------|-------|----------|----------------------------------|
| | 781,516 | 01/31/05 | Guthrie | | | |
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| | 2,415,846 | 02/18/47 | Randall | | | |
| | 2,578,621 | 12/11/51 | Yant | | | |
| | 3,580,051 | 05/25/71 | Blevins | | | |
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ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /BJ/

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U.S. PATENT DOCUMENTS

| EXAMINER INITIAL | PATENT NUMBER | ISSUE DATE | PATENTEE | CLASS | SUBCLASS | FILING DATE IF APPROPRIATE |
|---------------------|------------------|---------------|----------------------|-------|----------|----------------------------------|
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FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

| | DOCUMENT NUMBER | PUBLISHED DATE | COUNTRY | CLASS | SUBCLASS | TRANSLATION | |
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OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages etc.)

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| EXAMINER | DATE CONSIDERED |
| EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. | |

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 STATEMENT BY APPLICANT

(Use several sheets if necessary)

U.S. PATENT DOCUMENTS

| EXAMINER INITIAL | PATENT NUMBER | ISSUE DATE | PATENTEE | CLASS | SUBCLASS | FILING DATE IF APPROPRIATE |
|---------------------|------------------|---------------|----------------|-------|----------|----------------------------------|
| | 3,182,659 | 05/11/65 | Blount et al. | | | |
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FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

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| | 5,570,682 | 11/05/96 | Johnson | | | |
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| EXAMINER INITIAL | PATENT NUMBER | ISSUE DATE | PATENTEE | CLASS | SUBCLASS | FILING DATE IF APPROPRIATE |
|---------------------|------------------|---------------|----------|-------|----------|----------------------------------|
| | 5,069,205 | 12/03/91 | Urso | | | |
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|---------------------|--|------------------|---------------|------------------------|-------|----------|----------------------------------|
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| EXAMINER INITIAL | PATENT NUMBER | ISSUE DATE | PATENTEE | CLASS | SUBCLASS | FILING DATE IF APPROPRIATE |
|---------------------|------------------|---------------|--------------------|-------|----------|----------------------------------|
| | 5,140,982 | 08/25/92 | Bauman | | | |
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FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

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INFORMATION DISCLOSURE
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U.S. PATENT DOCUMENTS

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